

STATE OF CALIFORNIA

Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105

Organizational Securities Permit Checklist for Underwritten Title Company

Instructions: Please complete and submit this Checklist with your application. As you complete this Checklist, place a check in the box next to the item number to indicate that the requested information has been attached or is otherwise included in the application. Submit the application and supporting documentation in duplicate.

If items are attached to this application, please number the attachments corresponding to the number of the item below and provide a separate list of attachments. If the item is not applicable, please state "not applicable" in the space provided. If information or documentation is requested but not provided, please explain in a separate attachment.

This checklist is intended as an aid only and has been provided to assist you in applying for an organizational securities permit. It is not presented as an exhaustive list of requirements and the applicant must still comply with all appropriate regulations and statutes. Further, pursuant to California Insurance Code Sections 839 and 839.1, the Commissioner has discretion in applying the legal standards of review in considering the application.

Pursuant to Title 10, California Code of Regulations Sections 2600 through 2613.08 and the internal requirements of the Department of Insurance, the application for an organizational securities permit must be in **pleading** form, printed on 8-1/2" x 11" paper, and must contain the information and documentation requested below.

The applicant affirms that this application includes or addresses the following:

1. ☐ The application fee (see current fee schedule) made payable to the Department of Insurance. Include a copy of the check along with the payment.
2. ☐ Pre-organizational securities permit requirements are satisfied:
 - ☐ a) The corporate name has been approved (Cal. Ins. Code Section 881).
 - ☐ b) The rate filing has been submitted (Cal. Ins. Code Section 12401 et. seq.).
3. ☐ The formal requirements for this application have been satisfied:
 - ☐ a) The physical requirements for this application have been met (Cal. Ins. Code Section 834 and Cal. Code of Reg. Section 2603.03).

- ☐ b) The name and address of applicant's counsel (Cal. Code of Reg. Section 2603.04).
 - ☐ c) The application has been properly entitled (Cal. Code of Reg. Section 2603.08).
 - ☐ d) The application has been properly labeled (Cal. Code of Reg. Section 2603.09).
 - ☐ e) The application has been properly verified (Cal. Code of Reg. Section 2603.10).
 - ☐ f) The application has been properly captioned (Cal. Code of Reg. Section 2603.07).
4. ☐ A prayer defining the size and term of the proposed permit (Cal. Code of Reg. Section 2603.11).
5. ☐ The names and addresses of the company's officers. (Section 2603.12(A)). In addition, the Department requires the identities and addresses of the officers, directors, and key managerial personnel (including, but not limited to, the individuals who will be appointed to, or will have comparable positions to the following: chief escrow officer, chief title officer, title plant manager, subdivision manager, and county manager) for each county in which the applicant is seeking to transact business.
- ☐ a) Attached are properly completed Individual Affidavits from all officers, directors, and key managerial personnel of the company. Additionally, any individual who will own 10% or more of the outstanding shares of the UTC or who owns 10% or more of its ultimate controlling parent must submit an affidavit (Section 2605.01B). Also provide a list, in alphabetical order, of all individuals whose affidavits have been submitted, identifying same by title. Attached is a copy of the Department's Individual Affidavit form. Please refer to the enclosed Affidavit Instructions for further guidance.
 - ☐ b) A properly completed and verified Organizational Affidavit for the underwritten title company, duly executed by an executive officer of the company. Please refer to the enclosed Affidavit Instructions for further guidance.
 - ☐ c) If the ultimate controlling parent is not an individual, attach a properly completed Organizational Affidavit for the ultimate controlling parent. Please refer to the enclosed Affidavit Instructions for further guidance.
 - ☐ d) A box style organizational chart, illustrating the ownership relationships between the applicant and its ultimate controlling parent and any related affiliates or subsidiaries. Include in this chart references to any contractual

relations between the applicant and any other entity or individual on the chart.

- ☐ i) If the number of individuals and entities depicted is too complex to be clearly illustrated in a one-page box style chart, please provide the best available chart in a format that is conducive to explaining the relations between the applicant and other entities or individuals related thereto.
6. ☐ The address of the company's home office (Section 2603.12(B))
7. ☐ An itemized account of applicant's financial condition, including the amount and character of its assets and liabilities, and a current financial statement (Cal. Code of Reg Section 2603.12(C)).
- ☐ a) In addition, attached are financial projections, in compliance with Section 2 of the Financial and Plan of Operation Guidelines (Cal. Code of Reg. Section 2605.01(E)).
8. ☐ Attached is a properly verified plan of operation, in compliance with Section 1 of the Financial and Plan of Operation Guidelines (Cal. Code of Reg. Section 2603.12(E)).
9. ☐ A voided specimen of the proposed stock certificate to be issued which contains the following restrictive legend (Section 2603.12(E)):
- It is unlawful to consummate a sale, transfer or encumbrance of this security, or any interest therein, or to receive any consideration therefor, without the prior written consent of the Commissioner of Insurance of the State of California.
10. ☐ Attached are complete and duly executed copies of all existing (or unsigned copies of all proposed) underwriting agreements with any admitted title insurers under which the applicant intends to transact business.

Please respond to the following statements below and attach a marked-up copy of the underwriting agreements, using tabs or captions to indicate where the following required provisions are located within the agreements. (California Insurance Code Section 12389.6)

- ☐ a) The agreements cover all of the counties in which the applicant intends to conduct business.
- ☐ b) The agreements do not allow for the placement of any liens upon the applicant.

- ☐ c) If the applicant intends to offer escrow services, the agreements provide for one or more of the following options. Please check the appropriate boxes below:
- ☐ i) A fidelity bond or insurance policy in conformity with the requirements of Section 12389.6.
- ☐ ii) A review of the escrow disbursements by a title insurer employee in compliance with the requirements of Section 12389.6.
- ☐ iii) An account review process in compliance with the requirements of Section 12389.6 or utilization of either the American Land Title Association's (ALTA) Escrow Internal Control Guidelines for Title Insurance Companies or the California Land Title Association's (CLTA) Account Review Processes and Oversight and Internal Control Guidelines as approved by the Department on April 1, 1996.
- ☐ iv) Utilization of written procedures approved by the Commissioner in compliance with the requirements of Section 12389.6.
- ☐ d) If there is exposure to loss on the part of the applicant, the agreements provide that such losses shall not exceed \$5,000 per policy.
- ☐ e) The agreements affirmatively state whether or not the applicant is authorized to handle claims on behalf of the title insurers. (Cal. Ins. Code Section 790; Cal. Code of Reg. Title 10, Chapter 5, Section 2695.2(m))
- ☐ f) The agreements clearly indicate that the applicant is responsible for the maintenance of records regarding all escrow receipts and disbursements. (Cal. Ins. Code Section 12389(b))
- ☐ g) The agreements clearly indicate that the applicant is responsible for the maintenance of records of title orders sufficient to indicate the source of such orders. (Cal. Ins. Code Section 12397.5(a))
- ☐ h) The agreements clearly indicate that the applicant is responsible for the maintenance of adequate records regarding commissions paid. (Cal. Ins. Code Section 12408.5)
- ☐ i) The agreements require the establishment of a separate deposit account for escrow funds. (Cal. Ins. Code Section 12413.5)
- ☐ j) The agreements provide for notice to be given by the title insurer to the Commissioner in the event of termination. (Cal. Ins. Code Section 12408.1)

11. ☐ Copies of prospectus to be distributed (Cal. Code of Reg. Section 2603.12(G)).
- ☐ a) If the applicant will not have a prospectus, please also state in the application.
12. ☐ Copies of any offering letters, proxy statements, or other circulars (Cal. Code of Reg. 2603.12(H)).
- ☐ a) If the applicant will not have one or more of such documents, please also state in the application.
13. ☐ Articles of Incorporation and all amendments made thereto containing the original certification from the California Secretary of State (Cal. Code of Reg. Section 2603.12(I)).
14. ☐ A current copy of applicant's bylaws, properly certified by the corporate secretary to be a true and correct copy (Cal. Code of Reg. Section 2603.12(J)).
15. ☐ A properly certified copy of the corporate minutes authorizing the issuance of the appropriate number of shares to specific individuals, the acts of applying for an organizational securities permit and an underwritten title company license, and all other acts necessary to further such purpose (Cal. Code of Reg. Section 2603.12(K)).
16. The application should also address the following (Section 2603.13):
- ☐ a) Number, kind, par value (if any), and amount of proposed securities (Cal. Code of Reg. Section 2603.13(A))
- ☐ b) Sale price per share, to be paid with cash (Cal. Code of Reg. Section 2603.13(B)).
- ☐ i) If the sale price is to be paid with other consideration, please explain.
- ☐ c) Selling commission or other compensation to be paid in connection with this transaction (Cal. Code of Reg. Section 2603.13(C)).
- ☐ d) Estimated total expenses to be incurred in the transaction (Cal. Code of Reg. Section 2603.13(D)).
- ☐ e) Purpose of sale or offering of securities (Cal. Code of Reg. Section 2603.13(E)).
- ☐ f) Attached is the requested information detailing the ownership and control of shares of the company, in compliance with Section 3 of the Financial and Plan of Operation Guidelines.

- ☐ g) A copy of the applicant's agreement, or proposed agreement, restricting transfer of shares to be executed between each shareholder and the company, containing the substance of the sample restrictive agreement, attached (Section 2613.08).
- ☐ h) The applicant has included in its financial documentation evidence that it has met both the minimum working capital and minimum net worth requirements of California Insurance Code Section 12389.
- ☐ i) The application contains the names of all of the counties in which the applicant intends to transact business. (Cal. Code of Reg. 2610.03(1)).
- ☐ ii) The applicant has provided evidence from each county of the total number of documents recorded in those counties as satisfies the requirements of Cal. Code of Reg. 2610.03(2).
- ☐ iii) The application states the total number of documents recorded by all of the relevant counties (Cal. Code of Reg. 2610.03(3)).
- ☐ i) A letter from a responsible officer of the company indicating that he or she has read, understands, and promises to comply with the provisions of Insurance Commissioner Bulletin Nos. 80-12, 81-8, 85-6, 95-4, 95-7, and 96-10.
- ☐ j) If the applicant intends to offer escrow services over the internet, please respond to the following:
 - ☐ i) Pursuant to Section 1 of the enclosed Financial and Plan of Operation Guidelines, detailed information and documentation regarding the applicant's procedures to ensure its compliance with the requirements of California Financial Code Sections 17403.1 through 17403.5 and 17409.1 have been incorporated into an updated and verified plan of operation.
 - ☐ k) Impounding of the proceeds from the subscription shares has been provided for and addressed in the application, in compliance with the requirements of Cal. Code of Reg. Section 2606.01 and 2606.02.
 - ☐ i) If the investors have chosen to waive the impounding requirement, the applicant has provided evidence of the execution of an informed consent to do so. (Cal. Code of Reg. Section 2606.01).
 - ☐ l) Attached is currently available information and documentation reflecting the real and personal property assets to be acquired or leased in order to transact business.

- ☐ m) If the licensing of the company involves acquiring the title and/or escrow business of another underwritten title company or title insurer:
- ☐ i) Attached are detailed information and all supporting documentation reflecting the parties' responsibilities with regard to pending business at the time the acquisition is to be completed.
- ☐ n) If the underwritten title company intends to use independent notary services for escrow signings:
- ☐ i) Attached is the written agreement between the underwritten title company and the independent notary or notary signing service.

Please respond to the statements below and use tabs or captions to indicate where the following required provisions are located within the agreement:

- ☐ (A) A description of the services to be performed by the notary.
 - ☐ (B) A provision for training of the notary by the UTC or the title insurer.
 - ☐ (C) A prohibition on the notary handling any funds, escrow or otherwise.
 - ☐ (D) A covenant that the notary shall refer any calls of a substantive nature regarding the document contents to an appropriate employee of the UTC.
 - ☐ (E) There is no exculpatory clause providing that the UTC be relieved of any responsibility to the underlying consumer by virtue of the use of the independent notary.
 - ☐ ii) The applicant's intent to utilize independent notary services has been incorporated into the verified plan of operation in compliance with Section 1 of the enclosed Financial and Plan of Operation Guidelines.
 - ☐ o) All previously required reports of transactions have been filed (Cal. Code of Reg. 2611.03).
 - ☐ p) This is the only application on behalf of the applicant currently pending before the Department of Insurance.
 - ☐ i) If not, please explain.
17. ☐ Enclosed with this original application is a duplicate copy of the application and supporting documents, addressed to the Chief of the Corporate Affairs Bureau. Submission of the duplicate copy with the original application will facilitate simultaneous review by the Department's Legal and Financial Analysis Divisions.

I, the undersigned, declare I am authorized to represent and sign on behalf of the applicant company,

_____.

Signature

Title

I affirm that the statements made above are true and correct and that the enclosed application addresses or includes the information and documentation requested in this Checklist.

Signature

Date

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